TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~361.~~ ~~77~~ 19

THE PEOPLE OF THE STATE OF NEW YORK EX REL. CHAUNCEY P. WILLIAMS, PLAINTIFF IN ERROR,

vs.

WILLIAM J. WEAVER, EDWARD BRENNAN, AND ROBERT H. WEIR, CONSTITUTING THE BOARD OF ASSESSORS OF THE CITY OF ALBANY.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

FILED MARCH 1, 1876.

SUPREME COURT OF THE UNITED STATES.

No. 361.

THE PEOPLE OF THE STATE OF NEW YORK EX REL. CHAUNCEY P. WILLIAMS, PLAINTIFF IN ERROR,

vs.

WILLIAM J. WEAVER, EDWARD BRENNAN, AND ROBERT H. WEIR, CONSTITUTING THE BOARD OF ASSESSORS OF THE CITY OF ALBANY.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

INDEX.

	Original.	Print.
Writ of error	1	1
Citation and service	4	1
Errors assigned	7	2
Proceedings supreme court of New York	9	3
Agreed facts	9	3
Findings	14	6
Judgment	15	6
Exceptions	16	7
Appeal	16	7
Proceedings in court of appeals	18	8
Judgment	20	8
Clerk's certificate	21	9
Joinder	22	9

1 UNITED STATES OF AMERICA *ss*:

The President of the United States to the honorable the judges of the court of appeals of the State of New York, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said court of appeals, before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between The People of the State of New York on the relation of Chauncey P. Williams and William J. Weaver, Edward Brennan and Robert H. Weir, constituting the board of assessors of the city of Albany, wherein was drawn in question the validity of a statute of said State of New York, or an authority exercised under such statute, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such its validity, and manifest error hath happened, to the great damage of the said Chauncey P. Williams, as by his complaint appears: We being willing that the error, if any hath been, should be duly corrected, and full and speedy justice
2 done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court, together with the writ, so that you may have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record of proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 27th day of December, in the year of our Lord one thousand eight hundred and seventy-five.

[SEAL.]

CHARLES MASON,
Clerk of the Circuit Court of the United States for the Northern District of New York.

3 (Indorsed:) Supreme Court of the United States. The People, &c., on the relation of Chauncey P. Williams, pl'ff in error, ag'st W'm J. Weaver & o'rs, assessors, &c., def'ts in error. Writ of error. Matthew Hale, att'y for pl'ff in error, Albany, N. Y.

I hereby allow the within writ of error.
Albany, Jan'ry 11th, 1876.

S. E. CHURCH,
Ch. J. Court of Appeals.

4 UNITED STATES OF AMERICA, *ss*:

To William J. Weaver, Edward Brennan, and Robert H. Weir, constituting the board of assessors of the city of Albany, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October, 1876, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the northern district of New York, wherein The People of the State of New York on the relation of Chauncey P. Williams are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment in

the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Dated January 11th, 1876.

S. E. CHURCH,
Ch. J. Court of Appeals N. Y.

(Indorsed:) Supreme Court of the United States. The People, &c., on the relation of Chauncey P. Williams, pl'ff in error, ag'st William J. Weaver & o'rs, assessors, &c., def'ts in error. Citation. Matthew Hale, att'y for pl'ff in error, Albany, N. Y.

5 UNITED STATES OF AMERICA, *ss:*

To William J. Weaver, Edward Brennan, and Robert H. Weir, constituting the board of assessors of the city of Albany, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October, 1876, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the northern district of New York, wherein The People of the State of New York on the relation of Chauncey P. Williams are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Dated January 11th, 1876.

(Signed) S. E. CHURCH.
Ch. J. Court of Appeals, N. Y.

6 (Indorsed:) Sup. Court U. S., 1876. Octo. term. No. 616. Ex rel. C. P. Williams vs. Weaver et al. Citation & service. Filed 2 October, 1876.

(Indorsed:) Supreme Court of the United States. The People, &c., on the relation of Chauncey P. Williams, pl'ff in error, ag'st William J. Weaver & o'rs, assessors, &c., def'ts in error. Citation. Matthew Hale, att'y for pl'ff in error, Albany, N. Y.

Due service of a copy of the within citation, and 30 days' notice to the adverse party, is hereby admitted.

LYMAN TREMAIN,
Att'y for D'f'ts in Error.

7 Supreme Court of the United States, of October term, in the year of our Lord one thousand eight hundred and seventy-six.

THE PEOPLE OF THE STATE OF NEW YORK on the relation of Chauncey P. Williams, plaintiffs in error,
against
WILLIAM J. WEAVER, EDWARD BRENNAN, AND Robert H. Weir, constituting the board of assessors of the city of Albany, defendants in error.

Afterwards, to wit, on the 2d Monday of October, in this same term, before the justices of the Supreme Court of the United States at the Capitol in the city of Washington, comes the said Chauncey P. Williams by Matthew Hale, his attorney, and says that in the record and proceed-

ings aforesaid there is manifest error in this, to wit: first, that the court erred in deciding that it was not the duty of the defendants in error to comply with the demand made by the said Chauncey P. Williams, relator, and reduce his assessments for personal property and for his
8 stock in the national banking association mentioned in the record herein, to the sum of one dollar, as required by said relator, and in answering the first question submitted to them in the negative. Second, that the said court erred in deciding that the law of the State of New York entitled "An act authorizing the taxation of stockholders of banks and surplus funds of savings banks," passed April 23d, 1866, was not in violation of the laws of the United States, and especially in violation of the restrictions upon such taxation imposed by section 3219 of the Revised Statutes of the United States, relating to the assessment of taxes by State authority upon shares of banking associations organized under the laws of the United States, and in deciding the third question to it submitted in the negative.

And the said Chauncey P. Williams prays that the judgment aforesaid may be reversed, annulled, and altogether held for nought, and that he may be restored to all things which he hath lost by occasion of the said judgment.

MATTHEW HALE,
Attorney for Plaintiff in Error.

8½ (Indorsed:) Supreme Court of the United States. The People, &c., on the relation of Chauncey P. Williams, pl'ff in error, against William J. Weaver & o'rs, appraisers, &c., def'ts in error. Assignment of error. Matthew Hale, att'y for pl'ff in error, Albany, N. Y.

9 In the supreme court of the State of New York.

THE PEOPLE OF THE STATE OF NEW YORK on the relation of Chauncey P. Williams *against* WILLIAM J. WEAVER, EDWARD BRENNAN, and Robert H. Weir, constituting the board of assessors of the city of Albany.	Case agreed upon for submission.

The following are the facts upon which the controversy between the relator, Chauncey P. Williams, and the defendants above named depends:

The said relator was, on the first day of September last, ever since has been, and still is, a citizen of the State of New York, a resident of the fourteenth ward of the city of Albany, and the owner of 425 shares of the capital stock of the National Albany Exchange Bank, which is a banking association duly organized under the act of Congress approved June 3, 1864, entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

10 The greater portion of the property of said banking association has always consisted and still consists of bonds of the United States deposited pursuant to law with the Treasurer of the United States. The said banking association is, and always has been, located in the sixth ward of the city of Albany. The defendants were, on the 1st day of September, 1875, ever since have been, and still are, the assessors of the city of Albany. The defendants, as such assessors, did, on or about the 1st day of September, 1875, assess said relator, in the

assessment of taxes in the sixth ward of the city of Albany, for the year 1875, upon said shares of stock in said banking association, the sum of $38,250. Before the defendants, as such assessors, had completed their assessments, namely, on the 28th day of September, 1875, said relator appeared before the defendants as such assessors and made an affidavit, of which the following is a copy:

CITY AND COUNTY OF ALBANY, *ss*:

I, Chauncey P. Williams, being duly sworn, do depose and say that the value of personal estate owned by me, including my bank stock, after deducting my just debts and my property invested in the stock of corporations or associations liable to be taxed therefor, and my investments in the obligations of the United States, does not exceed the sum of one dollar.

C. P. WILLIAMS.

Subscribed and sworn before me, this 28th day of September, 1875.

JAMES MAHER,
Notary Public.

And the relator thereupon presented said affidavit to the defendants as such assessors, and afterward, namely, on the 2d day of October, 1875, which was before the said defendants as such assessors had completed their assessments, delivered to the defendants a demand, in writing, of which the following is a copy:

11 To the assessors of the city of Albany:

I hereby demand that the assessment against me for personal property and for bank-stock on the assessment-rolls for the current year be reduced to the sum of one dollar, as the value of personal estate owned by me, including my bank-stock, after deducting my just debts and my property invested in the stock of corporations or associations liable to be taxed therefor, and my investments in the obligations of the United States, does not exceed that sum.

Albany, 2d October, 1875.

C. P. WILLIAMS.

The defendants, as such assessors, refused to comply with said demand so far as it related to said relator's assessment for shares of stock in said banking association, but retained said assessment at the sum of $38,250.

The value of said relator's personal estate, including bank-stock, on the 1st day of September, 1875, and on the day of said demand and refusal, after deducting his just debts and his property invested in the stock of corporations or associations liable to be taxed therefor, and his investments in the obligations of the United States, did not exceed the sum of one dollar.

The defendants in this action have proceeded under a law of the State of New York specially applicable to the city of Albany, in force during all the times above mentioned, and still in force, except as the same may have been amended or affected by subsequent acts, which law is known as chapter 86 of the laws of the State, passed in the year 1850. All courts before whom this case shall come for any decision, and the counsel for respective parties, also may refer to the aforesaid act, as contained in the printed volume of the laws of such State for said year 1850, with the same force and effect as if such law were incor

porated in full in this case. And all other laws of the said State,
12 which by their terms are specially applicable to the said city of Albany, may also be referred to in same way by court and counsel. And the laws thus referred to are to be taken as forming part of this case, and the facts hereby submitted so far as they may be held to be applicable thereto. In all cases of individual citizens of this State, owners of moneyed capital other than bank-stock, the defendants as such assessors, in making their assessments for the year 1875, upon affidavit that the personal estate owned by such individual citizen, after making the deductions specified by law, did not exceed a certain sum specified in such affidavit, have valued the personal estate of such individual citizen, including moneyed capital other than bank-stock, at the sum specified in such affidavit, and no more.

The assessment-roll of said sixth ward is, at the time of this submission to the supreme court of the State of New York, in the hands of the defendants and under their control.

The questions submitted to the court upon this case are as follows:

First. Was it the duty of the defendants, as such assessors, to have complied with the demand made by the relator as aforesaid, and have reduced his assessments to the sum of one dollar?

Second. Whether, under the law of this State, entitled "An act authorizing the taxation of stockholders of banks and surplus funds of savings-banks," passed April 23, 1866, the defendants, as such assessors, were justified in refusing to reduce the relator's assessment on his said shares of stock to the sum of one dollar?

Third. Whether, if by the provisions of the last-named law of the State of New York, the defendants, as such assessors, were prohibited from making the deduction claimed, the said State law is in violation of the laws of the United States relating to the assessment of taxes by State authority upon shares of banking associations organized
13 under the laws of the United States, and especially in violation of the restrictions upon such taxation imposed by section 5219 of the Revised Statutes of the United States, and therefore, to that extent, unconstitutional and void?

The relator claims that the first question should be answered affirmatively and the second negatively; or, if the second question should be answered affirmatively, that then the third question should also be answered affirmatively, and that he is entitled to judgment against the defendants for a peremptory mandamus requiring the defendants, as assessors as aforesaid, to reduce his assessment upon said shares of bank stock to the sum of one dollar, and for costs.

The defendants claim that the first and third questions should be answered in the negative, and the second question in the affirmative, and that they are entitled to judgment against the relator for costs.

Dated October 20, 1875.

HAND, HALE, SWARTZ & FAIRCHILD,
Attorneys for Plaintiff.

PECKHAM & TREMAIN,
Attorneys for Defendants.

CITY AND COUNTY OF ALBANY, *ss:*

Chauncey P. Williams and William J. Weaver, being duly severally sworn, says, each for himself, that the controversy mentioned in the foregoing case is real, and the proceedings in good faith to determine the rights of the parties.

C. P. WILLIAMS.
W'M J. WEAVER.

Severally sworn to and subscribed before me this 25th day of October, 1875.

LOUIS HAENDEL,
Commissioner of Deeds, Albany County.

14 At a general term of the supreme court of the State of New York, held at the capitol, in the city of Albany, on the 16th day of November, 1875.

Present, Hon. W. L. Learned, Douglass Boardman, Augustus Bockes.

THE PEOPLE, ETC.,
against
WILLIAM J. WEAVER AND OTHERS, ASSESSORS, etc.

The case coming on for argument on the submission thereof, after hearing M'r Hale, of counsel for relator, and M'r Peckham, of counsel for defendants, the court decides:

1st. That it was not the duty of the defendants, as assessors of the city of Albany, to comply with the demand made by said relator, and reduce his assessments to the sum of one dollar, and answer the first question submitted in the negative.

2d. That under the law of the State of New York, referred to in the second question, and passed April 23, 1866, the defendants, as such assessors, were justified in refusing to reduce the relator's assessment on his shares of bank stock mentioned in said submission to the sum of one dollar, and answers the second question in the affirmative.

3d. That the said law of the State of New York, passed April 23, 1866, is not in violation of any law of the United States relating to the amount of taxes on shares of national banking associations, and answers the third question submitted in the negative.

Judgment is therefore ordered for the defendants against the relator, with costs.

W'M E. HASWELL, *Clerk.*

(Copy.)

15 Supreme court.

THE PEOPLE OF THE STATE OF NEW YORK on the relation of Chauncey P. Williams
against
WILLIAM J. WEAVER, EDWARD BRENNAN, AND Robert Weir, constituting the board of assessors of the city of Albany.

Judgment, November 16, 1875.

This cause having come on for argument upon a submission thereof, pursuant to section 372 of the code of procedure, and the court having decided and answered the questions to it presented, as follows, namely, the first and third questions stated in said submission in the negative, and the second of said questions in the affimative, and directed judgment for the defendants against the relator, with costs,

Now, on motion of Peckham & Tremain, attorneys for the defendants above named,

It is ordered and adjudged that the defendants above named do recover of Chauncey P. Williams, the above-named relator, the sum of sixty dollars and fifty cents for their costs and disbursements herein.

W'M E. HASWELL, *Clerk.*

New York supreme court.

THE PEOPLE ON THE RELATION OF CHAUNCEY P. Williams
against
WILLIAM J. WEAVER AND OTHERS, ASSESSORS, etc.

The above-named relator, Chauncey P. Williams, hereby ex-
16 cepts to the decision of this court at general term, in the above-entitled action, and specifies the following exceptions:

1. He excepts to the decision that it was not the duty of the defendants, as assessors of the city of Albany, to comply with the demand made by said relator, and reduce his assessment to the sum of one dollar.

2. He excepts to the decision by which the second question contained in the submission herein was answered in the affirmative.

3. He excepts to the decision by which the third question contained in said submission was answered in the negative, and the law of this State, entitled "An act authorizing the taxation of stockholders of banks and surplus funds of savings banks," passed April 23, 1866, was held not to be in violation of the laws of the United States relating to the assessment by State authority upon shares of banking associations, organized under the laws of the United States, and not, especially, in violation of the restrictions upon such taxation imposed by section 5219 of the Revised Statutes of the United States, and not unconstitutional or void.

4. He excepts to the decision that the defendants are entitled to judgment for costs against the relator.

HAND, HALE, SWARTZ & FAIRCHILD,
Attorneys for Relator.

Supreme court.

THE PEOPLE OF THE STATE OF NEW YORK on the relation of Chauncey P. Williams
against
WILLIAM J. WEAVER AND OTHERS, CONSTITUTING the board of assessors of the city of Albany.

GENTLEMEN: Take notice that the above-named relator appeals to the court of appeals from the judgment of the supreme court
17 herein, entered in the clerk's office of the county of Albany on the 16th day of November, 1875, for sixty dollars and fifty cents costs, and from every part thereof.

Dated November 17, 1875.

Yours, etc.,

HAND, HALE, SWARTZ & FAIRCHILD,
Attorneys for the Relator.

To the clerk of the county of Albany, and to
PECKHAM & TREMAIN, esqrs., *Attorneys for the Def'ts.*

STATE OF NEW YORK,
City and County of Albany, ss:

CLERK'S OFFICE.

I, William E. Haswell, clerk of the city and county of Albany, and of the courts of record thereof, do hereby certify that I have compared the

annexed copies of judgment roll, case and exceptions, and notice of appeal, with the originals thereof on file in this office, and that the same are correct transcripts therefrom, and of the whole of said originals.

In testimony whereof, I have hereunto set my hand and affixed my seal this 6th day of December, 1875.

[L. S.] W'M E. HASWELL, *Clerk.*

STATE OF NEW YORK,
City and County of Albany, ss:

CLERK'S OFFICE.

I, William E. Haswell, clerk of the city and county of Albany, and of the courts of record thereof, do hereby certify that I have compared the annexed copies of judgment roll, case and exceptions, and notice of appeal, with the originals thereof on file in this office, and that the same are correct transcripts therefrom, and of the whole of said originals.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this 6th day of December, 1875.

[SEAL.] W'M E. HASWELL, *Clerk.*

18 Court of appeals.

STATE OF NEW YORK, *ss:*

Pleas in the court of appeals, held at the capitol, in the city of Albany, on the 21st day of December, in the year of our Lord one thousand eight hundred and seventy-five, before the judges of said court.

Witness the Hon. Sanford E. Church, chief judge, presiding.

E. O. PERRIN, *Clerk.*

Remittitur Feb. 18, 1876.

19 THE PEOPLE, &C., EX REL. CHAUNCEY P. WILLIAMS, app'l't,
ag'st
WILLIAM J. WEAVER ET AL., ASSESSORS, &C., resp'ts.

Be it remembered, that on the 8th day of December in the year of our Lord one thousand eight hundred and seventy-five, The People, &c., ex rel. Chauncey P. Williams, the appellant in this action, came here into the court of appeals, by Hand, Hale, Swartz, & Fairchild, his attorneys, and filed in the said court a notice of appeal and return thereto from the judgment of the general term of the supreme court.

And William J. Weaver et al., assessors, &c., the respondent in said action, afterwards appeared in said court of appeals by Peck-
20 ham & Tremain, their attorneys.

Which said notice of appeal and the return thereto, filed as aforesaid, are hereunto annexed.

Whereupon, the said court of appeals having heard this cause argued by Mr. Matthew Hale, of counsel for the appellant, and Mr. Grenville Tremain, of counsel for the respondent, and after due deliberation had thereon, did order and adjudge that the judgment of the supreme court appealed from in this action be in all things affirmed. And it was further ordered and adjudged that the respondent recover against the appellant costs of appeal to this court. This judgment is upon the authority of the former decision of this court rendered in the case of The People against Dolan & others, assessors (reported in 36 N. Y., 59).

And it was also further ordered that the record aforesaid and the proceedings in this court be remitted to the said supreme court, there to be proceeded upon according to law.

21 Therefore, it is considered that the said judgment be in all things affirmed, with costs as aforesaid, and stand in full force, strength, and effect.

And hereupon, as well the notice of appeal and return thereto aforesaid as the judgment of the court of appeals aforesaid, by them given in the premises, are by the said court of appeals remitted into the supreme court of the State of New York, before the justices thereof, according to the form of the statute in such case made and provided, to be enforced according to law, and which record now remains in the said supreme court before the justices thereof, &c.

E. O. PERRIN,
Clerk of the Court of Appeals of the State of New York.

COURT OF APPEALS, CLERK'S OFFICE,
Albany, Feb. 18, 1876.

I hereby certify that the preceding record contains a correct transcript of the proceedings in said action in the court of appeals, with the papers originally filed therein attached thereto.

[SEAL.] E. O. PERRIN, *Clerk.*

22 In the Supreme Court of the United States.

WILLIAM J. WEAVER, EDWARD BRENNAN, & Robert H. Weir, &c., d'f'ts in error, *ads.* THE PEOPLE OF THE STATE OF NEW York, upon the relation of Chauncey P. Williams, pl'ffs in error.	In error.

And afterwards, to wit, on the second Monday of October, 1876, in October term, in the year of our Lord one thousand eight hundred and seventy-six, the said William J. Weaver, Edward Brennan, & Robert H. Weir, by Lyman Tremain, their attorney, freely come here into court & say that there is no error, either in the record or proceedings aforesaid, or in the giving of the judgment aforesaid; and they pray that the said Supreme Court of judicature, before the justices thereof

23 now here, may proceed to examine, as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid in form aforesaid given, may be in all things affirmed, &c.

LYMAN TREMAIN,
Att'y for Def'ts in Error, Albany, New York.

(Indorsed:) In the Supreme Court of the United States, William J. Weaver, Edward Brennan, & Robert H. Weir, def'ts in error, ads. The People of the State of New York upon the relation of Chauncey P. Williams, pl'ffs in error. No. 616. Joinder in error. Lyman Tremain, att'y for def'ts in error, Albany, N. Y. Filed 18 October, 1876.

(Indorsement on cover:) No. 361. The People of the State of New York, ex rel. Chauncey P. Williams, plaintiff in error, vs. William J. Weaver, Edward Brennan, and Robert H. Weir, constituting the board of assessors of the city of Albany. New York court of appeals. Filed 1st March, 1876.

REC. 361——2